

1 HONORABLE BARBARA J. ROTHSTEIN
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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 SIERRA CLUB, *et al.*,)
12 Plaintiffs,) No. C11-1759BJR
13 and)
14 THE SPOKANE TRIBE OF INDIANS,) JOINT STATUS REPORT
15 Plaintiff-Intervenor,)
16 v.)
17 REGIONAL ADMINISTRATOR OF THE)
18 ENVIRONMENTAL PROTECTION)
19 AGENCY, CHRIS HLADIK¹, *et al.*,)
20 Defendants,)
21 and)
22 SPOKANE COUNTY; KAISER)
23 ALUMINUM WASHINGTON LLC; and)
24 STATE OF WASHINGTON)
25 DEPARTMENT OF ECOLOGY,)
26 Defendant-Intervenors.
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29 ¹ Substituted automatically pursuant to Fed. R. Civ. P. 25(d).

The Parties in this action -- Plaintiffs Sierra Club and Center for Environmental Law & Policy, Defendants Regional Administrator Chris Hladik and Administrator Scott Pruitt, in their official capacity, and the United States Environmental Protection Agency (collectively “EPA”), Intervenor-Plaintiff Spokane Tribe of Indians (the “Tribe”), and Intervenor-Defendants Spokane County, Kaiser Aluminum Washington LLC, and State of Washington, Department of Ecology (“Ecology”) -- jointly submit this status report in accordance with the Court’s January 17, 2017, Minute Order. Doc. No. 184. That order granted the unopposed motion filed by Plaintiffs and the Tribe to stay this case and directed the Parties to file a status report every 120 days. *Id.*

As previously explained, Ecology is undertaking the process to reissue National Pollutant Discharge Elimination System (“NPDES”) permits for certain direct dischargers of, among other pollutants, total PCBs into the Spokane River. Doc. No. 183 ¶ 4. On November 28, 2016, EPA promulgated revisions to water quality criteria for toxic pollutants, including revisions to the water quality criteria for total PCBs, which are more stringent than the water quality criteria for total PCBs applicable to relevant portions of the Spokane River at the time that Ecology proposed to re-issue the NPDES permits. Ecology is continuing to consider how to address the revised water quality criteria in NPDES permits for Spokane River dischargers. In this regard, Ecology has completed a number of “listening sessions” with the permittees and other interested parties to assist Ecology in determining how to proceed with the permits. In light of this and other information received, Ecology is developing its proposed approach for reissuing permits for Spokane River dischargers.

At the same time, the Spokane River Regional Toxics Task Force finalized its *Comprehensive Plan to Reduce Polychlorinated Biphenyls (PCBs) in the Spokane River* on November 29, 2016. As previously reported, the Washington legislature has appropriated

\$310,000 for the next biennium to support the work of the Task Force. This funding is directed towards implementing the Plan, which includes 38 current, new, and future control actions to identify PCB sources and reduce PCB loading to the Spokane River. These actions include: identification, evaluation, and cleanup of known PCB contamination (specifically impacting groundwater); implementation of stormwater controls and management activities; product testing and establishing procurement and purchasing standards for products and packaging containing PCBs; support of green chemistry research; public outreach and education; support of rulemaking to eliminate or reduce inadvertently generated PCBs; research on emerging end of pipe treatment technologies; building demolition and renovation best management practices; and other studies to address data gaps.

As explained in their prior motion, Plaintiffs and the Tribe may voluntarily dismiss this case based on the terms Ecology includes in the relevant final NPDES permits. Doc. No. 183 ¶ 5. Accordingly, the Parties continue to believe that proceedings in this case should remain stayed. Therefore no action is required of the Court at this time, and the Parties will file as appropriate a status report within the next 120 days in accordance with the Court's Minute Order.

Respectfully submitted by:

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing filing was electronically filed with the Clerk of the
3 Court on January 19, 2018, using the CM/ECF system, which will send notification of said
4 filing to the attorneys in this case registered with the Court's CM/ECF system.

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6 /S/ David Kaplan
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